

DeMaria, Eva

From: MCCLINCY Matt <MCCLINCY.Matt@deq.state.or.us>
Sent: Tuesday, February 09, 2016 1:42 PM
To: DeMaria, Eva; LIVERMAN Alex; JOHNSON Keith
Cc: Sheldrake, Sean; Zhen, Davis
Subject: RE: EPA SCD template

Hi Eva,

Thank you putting this draft together. We appreciate the review opportunity you are providing. In your cover email, you provide a perspective on why you included language for additional stormwater monitoring in the Christenson source control decision letter and why you have included in similar language in your draft boiler plate. This background is helpful. Alex is reviewing it with our Water Program and we may need to discuss some of your interpretations of the 1200Z language and CWA, or at least implementation implications and expectations, so we are communicating with one voice to the RPs.

That said, it is our request that EPA not include the language regarding additional stormwater monitoring in the concurrence letters. It is our opinion that EPA's letter should be as clean as possible and either agree or disagree with DEQ's source control decision. We strongly feel that the discussion about the need for additional stormwater monitoring should be sorted out one way or the other prior to EPA issuing a source control letter and that the EPA source control letter is not the appropriate instrument.

The Portland Harbor MOU process provides EPA the opportunity to review and comment on DEQ's draft source control decisions. We take EPA and partner comments seriously and work to resolve review comments such as inadequate data to support a source control decision. It's been great working with you to get up to speed on this process, and we really hope to continue working through concerns you have on each project before we get to issuance of a decision, so we can keep any instances where EPA disagrees with a source control decision to a minimum.

Let's plan to include discussion of your additional monitoring concerns in our on-going discussions of source control compliance for stormwater and perhaps bring in the water perspective from our respective programs.

Matt

From: DeMaria, Eva [mailto:DeMaria.Eva@epa.gov]
Sent: Friday, January 22, 2016 2:31 PM
To: MCCLINCY Matt; LIVERMAN Alex; JOHNSON Keith
Cc: Sheldrake, Sean; Zhen, Davis
Subject: EPA SCD template

Hi all-

As promised, I've developed EPA's SCD template. I looked at past EPA letters and largely follow the format with the exception of the 1200Z stormwater language I added. I understand that DEQ has heartburn over this, but I think it's important to put the RPs on notice that EPA may have concerns with certain COCs (or pollutants in CWA parlance) that exceed SLVs/PRGs. In regards to Christensen Oil, BEHP is not required to be sampled under the 1200Z permit and because the sediment found in the catch basin was found to be extremely high (PRG 500 ug/kg vs. sample 32,000 ug/kg) I thought it important to highlight the limits of the 1200Z permit in our letter. Although the sediment is not stormwater per se, the sediment can be carried out to the river via storm events. We concurred with DEQ's SCD despite the PRG exceedances because Christensen made up around 1% of the areal discharge to the MS4 outfall. DEQ mentioned their

concern that EPA's statement may go beyond DEQ's authority to collect information beyond what's required under the 1200Z, but under DEQ's NPDES authority, there should be an ability to require sampling for possible unpermitted/questionable discharges. Note that Section B.5. of the 1200Z permit states, "DEQ may notify permit registrants in writing of additional discharge monitoring requirements." In addition, EPA has the ability to request more information (monitoring) under its Section 308 CWA authorities. I would also like to clarify, again, that benchmarks are **NOT** limits. This is clearly stated in Section A.9. of the 1200Z permit, "Benchmarks and reference concentrations for impairment pollutants are guideline concentrations, **not limitations**; a benchmark or reference concentration exceedance, therefore, is not a permit violation." The limit is the water quality standards: Section A.4. of the 1200Z permit states, "The permit registrant must not cause or contribute to a violation of instream water quality standards as established in OAR 340-041." I talked to a contact at DEQ's water quality and typically if a benchmark is exceeded and the permittee fails to implement corrective actions/BMPs, DEQ will pursue the corrective action/BMP violations. DEQ rarely, if ever, enforces WQS in the 1200Z. However, EPA has enforced both WQS and BMP violations under the MSGP and CGP. Finally, my understanding of mixing zones is that they are not permitted for pollutants that are 303(d) listed. I'm sure there will be more questions and followup. Please call or email if you have questions. Have a great weekend!

Eva

[Eva DeMaria](#)

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